

ESTTA Tracking number: **ESTTA144833**Filing date: **06/07/2007**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91176065
Party	Defendant H. Co. Computer Products H. Co. Computer Products 16812 Hale Avenue Irvine, CA 926063222
Correspondence Address	RAYMOND R. TABANDEH CHRISTIE, PARKER & HALE, LLP. 350 West Colorado Blvd., Suite 500 Post Office Box 7068 PASADENA, CA 91109-7068 UNITED STATES pto@cph.com
Submission	Answer and Counterclaim
Filer's Name	Gary J. Nelson
Filer's e-mail	pto@cph.com
Signature	/Gary J. Nelson/
Date	06/07/2007
Attachments	Amended Answer to Ntc of Opposition - Counterclaim.pdf (9 pages)(241920 bytes)

Registrations Subject to Cancellation

Registration No	2550628	Registration date	03/19/2002
Registrant	LENOVO (SINGAPORE) PTE. LTD. 9 CHANGI BUSINESS PARK, CENTRAL 1 SINGAPORE, 486048 SINGAPORE		
Goods/Services Subject to Cancellation	Class 009. First Use: 1999/10/00 , First Use In Commerce: 1999/10/00 Goods/Services: COMPUTER HARDWARE; COMPUTER HARDWARE, NAMELY, AN ILLUMINATION DEVICE FOR COMPUTER KEYBOARDS AND TERMINALS IN THE NATURE OF A LIGHT THAT ILLUMINATES THE COMPUTER KEYBOARD AND COMPUTER TERMINAL, AND COMPUTER MANUALS SOLD THEREWITH		
Registration No	2633094	Registration date	10/08/2002
Registrant	LENOVO (SINGAPORE) PTE. LTD. 9 CHANGI BUSINESS PARK, CENTRAL 1 SINGAPORE, 486048 SINGAPORE		
Goods/Services Subject to Cancellation	Class 009. First Use: 2001/02/20 , First Use In Commerce: 2001/02/20 Goods/Services: Computer hardware; computer hardware, namely a digital notepad and digital pen stylus; computer software for capturing, recognizing and transferring handwritten notes made on paper pads to a mobile computing device		
Registration No	2995709	Registration date	09/13/2005
Registrant	IBM ASIA PRODUCTS PTE. LTD. 9 CHANGI BUSINESS PARK CENTRAL 1 SINGAPORE, 486048		

	SINGAPORE		
Goods/Services Subject to Cancellation	Class 009. First Use: 2003/06/13 , First Use In Commerce: 2003/06/13 Goods/Services: COMPUTER SOFTWARE, NAMELY, OPERATING SYSTEM SOFTWARE AND APPLICATION SYSTEM SOFTWARE FOR USE IN CONTROLLING THE OPERATION AND EXECUTION OF PROGRAMS AND NETWORK FUNCTIONS ON A COMPUTER WORKSTATION; AND INSTRUCTIONAL MANUALS SOLD THEREWITH		
Registration No	2934258	Registration date	03/15/2005
Registrant	LENOVO (SINGAPORE) PTE. LTD. 9 CHANGI BUSINESS PARK, CENTRAL 1 SINGAPORE, 486048 SINGAPORE		
Goods/Services Subject to Cancellation	Class 009. First Use: 2003/06/13 , First Use In Commerce: 2003/06/13 Goods/Services: COMPUTER HARDWARE; COMPUTER WORKSTATIONS COMPRISING A CENTRAL PROCESSING UNIT, DISPLAY MONITOR, KEYBOARD, HARD AND FLOPPY DISKETTE DRIVES AND OPTIONAL COMPUTER PERIPHERALS; AND INSTRUCTIONAL MANUALS SOLD THEREWITH		
Registration No	3009301	Registration date	10/25/2005
Registrant	LENOVO (SINGAPORE) PTE. LTD. 9 Changi Business Park, Central1 Singapore, 486048 SINGAPORE		
Goods/Services Subject to Cancellation	Class 009. First Use: 2002/11/00 , First Use In Commerce: 2004/02/00 Goods/Services: COMPUTER HARDWARE; COMPUTER SOFTWARE FOR USE AS A COMPUTER OPERATING SYSTEM; COMPUTER WORKSTATIONS COMPRISING CENTRAL PROCESSING UNIT, DISPLAY MONITOR, KEYBOARD, HARD AND FLOPPY DISKETTE DRIVES AND OPTIONAL COMPUTER PERIPHERALS; AND INSTRUCTION MANUALS SOLD AS A UNIT THEREWITH		
Registration No	2678462	Registration date	01/21/2003
Registrant	LENOVO (SINGAPORE) PTE. LTD. 151 LORONG CHUAN, #02-01 NEW TECH PARK SINGAPORE, 556741 SINGAPORE		
Goods/Services Subject to Cancellation	Class 009. First Use: 2000/06/26 , First Use In Commerce: 2000/06/26 Goods/Services: equipment for performing scientific experiments, especially in schools or other educational institutions, namely, temperature probes, light probes, rotary motion probes and accessory kits sold therewith, photo event probes consisting of a light source and light detectors, distance probes utilizing sonar, and lasers for measuring purposes; and cables, adapters, modular connectors, power supply, base unit and prototyping cards for use therewith in conjunction with personal computers or other devices to display the data gathered using the included sensors and probes		
Registration No	2931692	Registration date	03/08/2005
Registrant	LENOVO (SINGAPORE) PTE. LTD. 9 CHANGI BUSINESS PARK, CENTRAL 1 SINGAPORE, 486048 SINGAPORE		
Goods/Services Subject to Cancellation	Class 009. First Use: 2003/05/00 , First Use In Commerce: 2003/05/00 Goods/Services: COMPUTER HARDWARE; COMPUTER MONITORS; VIDEO PROJECTORS; DATA PROJECTORS; DATA/VIDEO PROJECTORS; HAND HELD VIDEO/DATA PROJECTORS; AND INSTRUCTION MANUALS SOLD AS A UNIT THEREWITH		

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

<p>LENOVO (SINGAPORE) PTE LTD</p> <p>Opposer,</p> <p>v.</p> <p>H. CO. COMPUTER PRODUCTS</p> <p>Applicant.</p>	<p>Opposition No. 91176065</p> <p>AMENDED ANSWER TO AMENDED NOTICE OF OPPOSITION; COUNTERCLAIM</p> <p>Mark: THINKCP Serial No.: 78/636,480 Filed: May 24, 2005</p>
<p>H. CO. COMPUTER PRODUCTS</p> <p>Counterclaimant,</p> <p>v.</p> <p>LENOVO (SINGAPORE) PTE LTD</p> <p>Counter-Opposer.</p>	

Applicant H. Co. Computer Products ("Applicant" or "HCCP") submits its Amended Answer to Opposer Lenovo PTE Ltd.'s ("Opposer" or "Lenovo") Amended Notice of Opposition in the above-identified Opposition proceeding pending before the United States Trademark Trial and Appeal Board. The numbers of the following paragraphs correspond to the paragraph numbers in the Amended Notice of Opposition:

1. HCCP lacks information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Amended Notice of Opposition, and therefore denies the allegations.

2. HCCP lacks information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Amended Notice of Opposition, and therefore denies the allegations.

3. HCCP admits the allegation contained in Paragraph 3 of the Amended Notice of Opposition that the opposed application contains goods related to computer hardware. HCCP denies all remaining allegations contained in Paragraph 3 of the Amended Notice of Opposition.

4. HCCP lacks information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Amended Notice of Opposition, and therefore denies the allegations.

5. HCCP lacks information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Amended Notice of Opposition, and therefore denies the allegations.

6. HCCP denies the allegations contained in Paragraph 6 of the Amended Notice of Opposition.

7. HCCP denies the allegations contained in paragraph 7 of the Amended Notice of Opposition.

8. HCCP denies the allegations contained in paragraph 8 of the Amended Notice of Opposition.

AFFIRMATIVE DEFENSES

1. Opposer is barred from the relief sought by the equitable doctrine of laches.

2. Opposer is barred from the relief sought by the equitable doctrine of acquiescence.

3. Opposer is barred from the relief sought by the equitable doctrine of estoppel.

WHEREFORE, H. Co. Computer Products requests this Opposition be dismissed with prejudice and that United States Trademark Application Serial No. 78/636,480 be allowed to issue as a registration.

COUNTERCLAIM

H. Co. Computer Products ("Applicant/Petitioner" or "HCCP"), a California corporation, believes it is being damaged by, and will continue to be damaged by, the registration of the subject marks of United States Trademark Registration Nos. 2,633,094; 2,550,628; 2,995,709; 2,934,258; 3,009,301; 2,678,462; and 2,931,692 and petitions to cancel these registrations.

As grounds for the cancellation, Applicant/Petitioner alleges:

1. Lenovo (Singapore) PTE Ltd ("Opposer/Respondent" or "Lenovo") is the listed owner of United States Trademark Registration No. 2,633,094 for THINKSCRIBE for "computer hardware; computer hardware, namely a digital notepad and digital stylus; computer software for capturing, recognizing and transferring handwritten notes made on paper pads to a mobile computing device" in International Class 009, with a filing date of March 20, 2001, an issuance date of October 23, 2001, and an alleged date of first use in commerce of February 20, 2001 ("the '094 Registration").

2. Lenovo is the listed owner of United States Trademark Registration No. 2,550,628 for THINKLIGHT for "computer hardware; computer hardware, namely, an illumination device for computer keyboards and terminals in the nature of a light that illuminates the computer keyboard and computer terminal, and computer manuals sold therewith" in International Class 009, with a filing date of September 13, 9999, and issuance date of March 19, 2002, and an alleged date of first use in commerce of October 1999 ("the '628 Registration").

3. Lenovo is the listed owner of United States Trademark Registration No. 2,995,709 for THINKCENTRE for "computer software, namely, operating system software and application system software for use in controlling the operation and execution of programs and network functions on a computer workstation; and instructional manuals therewith" in

International Class 009; and for "printed materials, namely magazines, newspapers, books, brochures, instructional, educational and teaching material directed to users of computer hardware and software for computer workstations" in International Class 016, with a filing date of August 26, 2002, an issuance date of September 13, 2005, and an alleged date of first use in commerce of June 13, 2003 ("the '709 Registration").

4. Lenovo is the listed owner of United States Trademark Registration No. 2,934,258 for THINKCENTRE for "computer hardware; computer workstations comprising a central processing unit, display monitor, keyboard, hard and floppy diskette drives and optional computer peripherals; and instructional manuals sold therewith" in International Class 009 with a filing date of August 26, 2002, an issuance date of March 15, 2005, and an alleged date of first use in commerce of June 13, 2006.

5. Lenovo is the listed owner of United States Trademark Registration No. 3,009,301 for THINKVANTAGE for "computer hardware; computer software for use as a computer operating system; computer workstations comprising central processing unit, display monitor, keyboard, hard and floppy diskette drives and optional computer peripherals; and instruction manuals sold as a unit therewith" in International Class 009 and for "printed matter and printed materials, namely magazines, periodicals, newspapers, books, brochures, instructional, educational and teaching material directed to users of computer hardware and software for computer workstations" in International Class 016, with a filing date of August 26, 2002, an issuance date of October 25, 2005, and an alleged date of first use in commerce of February 2004 ("the '301 Registration").

6. Lenovo is the listed owner of United States Trademark Registration No. 2,678,462 for THINKSTATION for "equipment for performing scientific experiments,

especially in schools or other educational institutions, namely, temperature probes, light probes, rotary motion probes and accessory kits sold therewith, photo event probes consisting of a light source and light detectors, distance probes utilizing sonar, and lasers for measuring purposes; and cables, adapters, modular connectors, power supply, base unit and prototyping cards for use therewith in conjunction with personal computers or other devices to display the data gathered using the included sensors and probes" in International Class 009, with a filing date of March 18, 1999, an issuance date of January 21, 2003, and an alleged date of first use in commerce of June 26, 2000.

7. Lenovo is the listed owner of United States Trademark Registration No. 2,931,692 for THINKVISION for "computer hardware; computer monitors; video projectors; data projectors; data/video projectors; hand held video/data projectors; and instruction manuals sold as a unit therewith" in International Class 009 and for "printed matter, namely, books, brochures, magazines, instructional manuals, written presentations and teaching materials, all in the field of computers" in International Class 016, with a filing date of December 12, 2002, and issuance date of March 8, 2005, and an alleged date of first use in commerce of May 2003 ("the '692 Registration") (the '628, '094, '709, '258, '301, '462, and '692 Registrations are collectively referred to as "Lenovo's Registrations" and the subject marks of Lenovo's Registrations are collectively referred to as "Lenovo's Marks").

8. Since prior to 1996, HCCP has been using "THINK," both as a trademark by itself and in combination with other terms and symbols and as a trade name ("HCCP's Marks"), in association with computers, computer peripherals, and computer accessories, including flash drives, portable hard drive storage, jump drives, thumb drives, biometric authenticators, magnetic identification cards, hard drives, smart card readers, displays, and liquid crystal

displays; computer memory upgrades, memory modules and memory chips used in computers and computer printers; network products, network interface cards, combined fax/modem and network interface adapters, network communications hubs, network communications routers, computer printer adapters for use in network printing, network cables, and computer printer adapters for shared network usage ("HCCP's Goods").

9. Since prior to the filing date in Lenovo's Registrations, HCCP has been using HCCP's Marks in connection with HCCP's Goods.

10. Since prior to the claimed priority date in some or all of Lenovo's Registrations, HCCP has been using HCCP's Marks in connection with HCCP's Goods.

11. The goods for which Lenovo has registered Lenovo's Marks are either identical or closely related to HCCP's Goods.

12. Lenovo's Marks so resemble HCCP's Marks as to be likely to cause confusion, or to cause mistake, or to deceive when used in connection with the Lenovo's goods.

13. The continuous registration of Lenovo's Marks is causing injury to HCCP's business plans, is impairing HCCP's rights in its Marks, is inconsistent with HCCP's rights, and will continue to cause injury to HCCP until the registration is cancelled.

WHEREFORE, HCCP requests that this counterclaim be sustained and that United States Trademark Registration Nos. 2,550,628; 2,633,094; 2,995,709; 2,934,258; 3,009,301; 2,678,462; and 2,931,692 be cancelled.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date 6/7/07

By Gary J. Nelson
Gary J. Nelson
Attorneys for Applicant
P.O. Box 7068
Pasadena, California 91109-7068
626/795-9900

GJN/SEL/sel

SEL PAS740501.1-* -06/7/07 3:27 PM

CERTIFICATE OF TRANSMISSION AND SERVICE

I certify that on June 7, 2007, the foregoing **AMENDED ANSWER TO AMENDED NOTICE OF OPPOSITION; COUNTERCLAIM** is being electronically filed with:

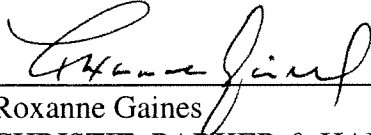
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

It is further certified that on June 7, 2007, the foregoing **AMENDED ANSWER TO AMENDED NOTICE OF OPPOSITION; COUNTERCLAIM** is being served by mailing a copy thereof by first-class mail addressed to:

Stanley D. Ference III
Ference & Associates
409 Broad Street
Pittsburgh, PA 15143

Attorneys for Opposer

By: _____


Roxanne Gaines
CHRISTIE, PARKER & HALE, LLP
P.O. Box 7068
Pasadena, CA 91109-7068